

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

MATTHEW ALVAREZ and SCOTT  
HALLIWELL, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

REALPAGE, INC., a Delaware corporation;  
GREYSTAR REAL ESTATE PARTNERS,  
LLC, a Delaware limited liability company;  
LINCOLN PROPERTY COMPANY, a Texas  
corporation; FPI MANAGEMENT, INC., a  
California corporation; MID-AMERICA  
APARTMENT COMMUNITIES, INC., a  
Tennessee corporation; AVENUE5  
RESIDENTIAL, LLC, a Delaware limited  
liability company; EQUITY RESIDENTIAL, a  
Maryland real estate investment trust; ESSEX  
PROPERTY TRUST, INC., a Maryland  
corporation; ESSEX MANAGEMENT  
CORPORATION, a California corporation;  
AVALONBAY COMMUNITIES, INC., a  
Maryland corporation; CAMDEN PROPERTY  
TRUST, a Texas real estate investment trust;  
THRIVE COMMUNITIES MANAGEMENT,  
LLC, a Washington limited liability company;  
and SECURITY PROPERTIES INC., a  
Washington corporation,

Defendants.

No. 2:22-cv-01617-RSL

**STATUS REPORT**

STATUS REPORT

Case No. 22-CV-1617-RSL- 1

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## STATUS REPORT

Plaintiffs and Defendants in the above-captioned action respectfully submit this status report pursuant to the Court's order of December 6, 2022, which directed the parties to meet and confer and file a status report regarding a proposed case schedule. *See Alvarez et al. v. RealPage, Inc., et al.*, No. 2:22-cv-01617-RSL (W.D. Wash.), Dkt. 21. Pursuant to the Court's order, Plaintiffs and Defendants met and conferred regarding a proposed case schedule on December 19, 2022. They have stated their respective positions on the subject below.

**Plaintiffs' Position.** The Parties had previously filed stipulated motions in *Alvarez* and *Navarro v. RealPage, Inc.* requesting that the Court suspend Defendants' deadlines to respond to the complaint, in light of the fact that several actions had been filed and continued to be filed in courts around the country, and instead file a status report on December 21, 2022. *See Navarro*, No. 22-cv-01552-RSL (W.D. Wash.), Dkt. 21, 41; *Alvarez* Dkt. 11. In *Cherry*, this Court ordered the parties to file a status report by December 21, 2022 after the case was transferred. *Cherry v. RealPage, Inc.*, No. 22-cv-01618-RSL (W.D. Wash.), Dkt. 42.

Since then, several critical developments have transpired readying the case for a schedule, as explained below.

First, this case is one of many involving Defendant RealPage, Inc. and several other overlapping defendants that was related to *Navarro*, and re-assigned to this Court. At this point, 11 cases involving RealPage in the Western District of Washington are now pending before this Court.

Second, on December 8 and 9, 2022, Defendants filed a motion before the Judicial Panel on Multi-District Litigation ("JPML") seeking to have various litigation matters, including those pending before this Court, transferred to the Northern District of Texas. *See, e.g., Alvarez* Dkt. 31. Defendants filed that motion after counsel for the plaintiffs in these various actions had begun coordinating to dismiss and re-file their matters in this Court, consistent with the JPML's instruction that plaintiffs must explore alternatives to centralization, such as seeking to privately agree on a consensus jurisdiction, prior to burdening the JPML

1 with a centralization motion under Section 1407.<sup>1</sup> On December 16, 2022, the JPML *sua*  
2 *sponte* dismissed Defendants' motion to transfer venue as moot because plaintiffs' successful  
3 coordination deprived the matter of its multi-jurisdictional character. *See Alvarez* Dkt. 46.

4 Third, on December 19, 2022, the plaintiffs in all cases pending at that point in time  
5 before the Western District of Washington filed a motion to consolidate these cases and appoint  
6 interim co-lead class counsel and a plaintiffs' executive committee to promote efficient  
7 coordination of these related litigation matters. *See Navarro* Dkt. 67.

8 These developments make clear that all related cases in The Western District of  
9 Washington either have been, or are soon expected to be, coordinated before this Court.<sup>2</sup>

10 Defendants' main stated reason for continuing to delay is the existence of certain,  
11 copycat actions filed within the last week by a single group of law firms on behalf of subsets of  
12 the proposed nationwide multifamily class of renters. *See Weaver v. RealPage, Inc., et al.*, No.  
13 1:22-cv-3224 (D. Col.) (proposed class of multifamily renters in the Denver area); *White v.*  
14 *RealPage, Inc., et al.*, No. 1:22-cv-12134 (D. Mass.) (proposed class of multifamily renters in  
15 the Boston area); *Vincin et al. v. RealPage, Inc. et al.*, No. 1:22-cv-01329 (W.D. Tex.)  
16 (proposed class of multifamily renters in the Austin area); *Carter v. RealPage, Inc. et al.*, No.  
17 1:22-cv-1332 (W.D. Tex.) (proposed class of multifamily renters in the Austin area); and  
18 *Boelens*, No. 2:22-cv-01802-JLR (proposed class of multifamily renters in the Seattle area).

19 Plaintiffs are reaching out to the plaintiffs in those actions to see if they will consent to  
20 transfer and consolidation of those cases before this Court. In any case, the existence of these  
21 copycat cases—filed months after the actions here—is no reason to halt progress in the pending  
22 cases already before this Court.

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23 <sup>1</sup> *In re: Gerber Probiotic Prod. Mktg. & Sales Pracs. Litig.*, 899 F. Supp. 2d 1378, 1379–80 (J.P.M.L. 2012) (“The  
24 Panel has often stated that centralization under Section 1407 ‘should be the last solution after considered review of  
25 all other options.’ *In re Best Buy Co., Inc., California Song–Beverly Credit Card Act Litig.*, 804 F. Supp. 2d 1376,  
26 1378 (J.P.M.L. 2011). These options include: Section 1404 transfer; dismissal or stay under the first-to-file  
27 doctrine; agreement by plaintiffs to voluntarily dismiss their actions in favor of one district; and cooperation and  
coordination among the parties and the various transferor courts.”).

<sup>2</sup> Plaintiff in the recently filed *Boelens* case noted on their civil cover sheet that the case was related to the eleven  
cases pending before this Court. *See Boelens v. RealPage, Inc. et al.*, No. 2:22-cv-01802-JLR (W.D. Wash.),  
Dkt. 1.

1 In particular, in the event that the Court grants Plaintiffs' pending, unopposed  
2 leadership motions, Plaintiffs' counsel will represent, respectively, putative nationwide classes  
3 of multifamily and student renters and will have the full ability to efficiently coordinate all  
4 litigation nationwide pending on behalf of the classes. Appointment of leadership would  
5 confirm that Plaintiffs' counsel is interim class counsel on behalf of the nationwide classes,  
6 including subsets of that class for which copycat actions are currently pending outside this  
7 district. Plaintiffs anticipate that prompt appointment of leadership in these cases would be  
8 efficient because it may obviate any need for an MDL in the event that Defendants renew those  
9 efforts. Therefore, the Court's ruling on the pending, unopposed leadership motions would be  
10 greatly beneficial in aiding Plaintiffs' continued efforts to coordinate all related cases.

11 Defendants also provide no explanation for why the Court should delay in resolving  
12 Plaintiffs' motion to consolidate nor do they voice any substantive objection to consolidation.  
13 Indeed, Defendants themselves repeatedly emphasize the need for efficiency and do not dispute  
14 that the cases are related. There is no reason to delay on consolidating the cases that are  
15 currently before this court.

16 Therefore, Plaintiffs think that these cases are now ready to proceed. Plaintiffs  
17 respectfully submit that the Court should grant the pending consolidation motion and adopt the  
18 following schedule:

- 19 • **45 Days After Order Granting Consolidation:** Plaintiffs to file Consolidated  
20 Class Action Complaint.
- 21 • **45 Days After Consolidated Complaint or Order Denying Consolidation:**  
22 Defendants to file consolidated motion to dismiss not to exceed 30 pages.<sup>3</sup> Each  
23 Defendant may have the option to file a separate, additional statement not exceeding  
24 4 pages addressing unique issues that cannot be and are not covered in a joint brief.

25  
26  
27 <sup>3</sup> Plaintiffs are willing to meet and confer further with Defendants regarding page limits.

- **45 Days After Motion to Dismiss:** Plaintiffs to file a consolidated opposition not to exceed 30 pages, with up to 4 pages to respond to each separate statement by a Defendant (which may be filed separately or in a consolidated fashion).
- **21 Days After Opposition to Motion to Dismiss:** Defendants to file a consolidated reply brief not to exceed 15 pages. To the extent any Defendant filed a separate opposition addressing Defendant-specific concerns, they shall have up to 2 additional pages to file a reply to any Defendant-specific opposition filed by Plaintiffs.
- **Hearing on Motion to Dismiss:** To be scheduled at the Court's convenience.

**Defendants' Position.** Defendants respectfully submit that it would be premature to enter a case schedule at this time. The above-captioned action is related to at least 15 other actions, including four actions respectively pending in the Western District of Texas, the District of Colorado, and the District of Massachusetts.<sup>4</sup> Defendants believe that judicial and party efficiency is best served by first determining the District in which all 16 of these actions (collectively, the "Related Actions") will be consolidated and heard for common pre-trial proceedings before imposing a litigation schedule, or ordering any other activity, in this matter. Defendants and other defendants named in the Related Actions will soon be filing a motion to transfer Related Actions, including the above-captioned action, to a District outside Washington.

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<sup>4</sup> These fifteen other related actions are: (1) *Navarro v. RealPage, Inc., et al.*, No. 2:22-cv-01552-RSL (W.D. Wash.); (2) *Cherry et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01618 (W.D. Wash.); (3) *Morgan et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01712 (W.D. Wash.); (4) *Armas et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01726 (W.D. Wash.); (5) *Johnson v. RealPage, Inc. et al.*, No. 2:22-cv-01734 (W.D. Wash.); (6) *Silverman et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01740 (W.D. Wash.); (7) *Bohn et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01743 (W.D. Wash.); (8) *Pham et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01744 (W.D. Wash.); (9) *Weaver v. RealPage, Inc. et al.*, No. 1:22-cv-03224 (D. Colo.); (10) *Godfrey v. RealPage, Inc. et al.*, No. 2:22-cv-01759 (W.D. Wash.); (11) *Zhovmiruk v. RealPage, Inc. et al.*, No. 2:22-cv-01779 (W.D. Wash.); (12) *White v. RealPage, Inc. et al.*, No. 1:22-cv-12134 (D. Mass.); (13) *Vincin et al. v. RealPage, Inc. et al.*, No. 1:22-cv-01329 (W.D. Tex.); (14) *Carter v. RealPage, Inc. et al.*, No. 1:22-cv-1332 (W.D. Tex.); and (15) *Boelens v. RealPage, Inc. et al.*, No. 2:22-cv-01802 (W.D. Wash.).

1 A group of defendants named in the Related Actions, including many Defendants, previously  
2 filed a motion under 28 U.S.C. § 1407 before the U.S. Judicial Panel on Multidistrict Litigation  
3 (the “Panel”) to consolidate the Related Actions in the Northern District of Texas, which the  
4 Panel dismissed as moot, on December 16, 2022, because all extant cases at the time of dismissal  
5 were in the Western District of Washington.<sup>5</sup> In the intervening five days, however, four Related  
6 Actions have been filed outside the Western District of Washington. Moreover, because the most  
7 recently filed cases were filed by different Plaintiffs’ counsel, there is no indication that those  
8 cases will be dismissed and re-filed here. The Related Actions accordingly span multiple districts  
9 and a transfer of Related Actions to one District is necessary so that they may proceed efficiently.  
10

11 For similar reasons, the Court should not take up Plaintiffs’ invitation to consider their  
12 motions for consolidation and to appoint lead counsel unless and until disputes over the proper  
13 venue for the Related Actions are resolved in favor of the Western District of Washington. As  
14 an initial matter, Plaintiffs’ characterization of their leadership motion as “unopposed” is  
15 premature. Further, even if the Court were to grant Plaintiffs’ leadership motion, Defendants  
16 disagree that such a ruling could bind plaintiffs in other Districts. In fact, not even all of the  
17 Related Actions in the Western District of Washington are subject to Plaintiffs’ consolidation  
18 and leadership motions. In any event, Plaintiffs no doubt prefer this forum considering that they  
19 first filed lawsuits in other states before dismissing them only to re-file here, but where, as here,  
20 cases exist in multiple Districts, judicial and party efficiency necessitates resolving the proper  
21 venue for all Related Actions before proceeding in only a subset of them. Moreover, in one of  
22 the other Related Actions currently before this Court, Defendant Equity Residential filed a  
23  
24  
25

26 <sup>5</sup> At the time Defendants filed their original § 1407 motion, multiple actions were pending outside the Western  
27 District of Washington, but, after the motion was filed, Plaintiffs dismissed those actions and re-filed several here,  
likely in an attempt to moot the motion.

1 Motion to Transfer Case to the Southern District of California based on authorities that have  
2 rejected the type of maneuvering in which the plaintiffs in that Related Action have engaged.  
3 *See Morgan et al. v. RealPage, Inc. et al.*, No. 2:22-cv-017120-RSL (W.D. Wash.), ECF No. 20.  
4 Defendants believe that a resolution of Equity Residential's motion will be relevant to the  
5 determination of where the Related Actions belong.

6 Given the rapidly evolving landscape of cases and the multiple disputes over their proper  
7 venue, Defendants respectfully request that the Court decline to enter a case schedule at this time,  
8 preserve the existing suspension of the deadline for Defendants to respond to the Complaint in  
9 the above-captioned action, and direct Plaintiffs and Defendants to file a status report by January  
10 18, 2023 to apprise the Court of still unfolding events.<sup>6</sup>

13 Dated this 21st day of December, 2022.

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<sup>6</sup> If the Court is inclined to enter a case schedule, Defendants disagree with Plaintiffs' proposed briefing schedule and page limits and respectfully request that the Court direct the parties to meet and confer regarding those matters.



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STATUS REPORT

Case No. 22-CV-1617-RSL- 8

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